

well as on non traditional lenders. Such provisions would discourage the participation of many lenders in the program, which would jeopardize the utilization of funds in these programs. Rural Development agrees with the commenters that this is of particular concern in light of the need of Rural Development's Rural Business—Cooperative Service to process the applications for Business and Industry Loan Guarantees funded with American Recovery and Reinvestment Act (Recovery Act) funds pursuant to the Notice of Funds Availability published on July 24, 2009 (74 FR 36649).

Instead, Rural Development believes that it is better to narrow the scope of a common regulatory platform to the activities associated with its commercial lending activities. In doing so, Rural Development will be able to shift the focus of the common regulatory platform from a broad array of guaranteed loan activities to those commercial lending activities associated with its Business Program, including renewable energy.

Focusing on commercial lending activities within its Business Program provides Rural Development the option of developing a common regulatory structure based on its current Business and Industry guaranteed loan regulations (7 CFR part 4279, subparts A and B, and 7 CFR part 4287, subpart B) and on its current Rural Energy for America Program regulation (7 CFR part 4280, subpart B) and incorporating the Biorefinery Assistance guaranteed loan program into this regulatory structure. By adopting, leveraging, and refining these existing regulations, Rural Development believes that this approach to developing a common regulatory structure for its commercial lending activities is preferable to implementing 7 CFR Part 5001 for several reasons, as suggested by the commenters, including, but not necessarily limited to:

- In contrast to 7 CFR part 5001, the framework of the current Business and Industry Loan Guarantee regulations is well established with stakeholders and has a proven program delivery track record.

- Implementing 7 CFR part 5001 would require both lenders and Rural Development staff to be re-trained in order to learn a new system. Because such a complete overhaul of the Business Program regulations is not required, it is not appropriate to burden the Rural Development staff to learn and implement a completely new system.

- Implementing 7 CFR part 5001 would impede Business Program funding utilization. The lack of

familiarity with the interim rule would cause a 60 to 90 day standstill in program delivery at a time when the program level is at record levels. Furthermore, implementation of the interim rule will seriously impede the Administration's initiative to use Recovery Act funds to improve the Nation's economy.

In summary, based on its review and re-examination of 7 CFR Part 5001 and the comments received, Rural Development takes the position that, with some refinement and enhancement, a common regulatory structure for guaranteed loans utilizing the current Business Program regulations will result in a better and more efficient regulatory structure than would be achieved through the implementation of 7 CFR part 5001.

## II. Withdrawal of Interim Rule

Accordingly, the interim final rule published on December 17, 2008 (73 FR 76698), delayed until February 17, 2009, (74 FR 2823), further delayed until March 9, 2009 (74 FR 7179), further delayed until June 1, 2009 (74 FR 9759), and further delayed until October 1, 2009 (74 FR 25617) is withdrawn as of September 21, 2009.

Dated: September 14, 2009.

**Dallas Tonsager,**

*Under Secretary.*

[FR Doc. E9-22527 Filed 9-18-09; 8:45 am]

**BILLING CODE 3410-XY-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2008-1325; Directorate Identifier 2008-NM-157-AD; Amendment 39-16024; AD 2009-20-01]

**RIN 2120-AA64**

#### **Airworthiness Directives; Boeing Model 727-281 Airplanes Equipped With Auxiliary Fuel Tanks Installed in Accordance With Supplemental Type Certificate SA3449NM**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Boeing Model 727-281 airplanes. This AD requires deactivation of Rogerson Aircraft Corporation auxiliary fuel tanks. This AD results from fuel system reviews conducted by the manufacturer, which identified potential unsafe conditions but has not provided

associated corrective actions. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**DATES:** This AD is effective October 26, 2009.

#### **Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800-647-5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Serj Harutunian, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5254; fax (562) 627-5210.

#### **SUPPLEMENTARY INFORMATION:**

#### **Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 727-281 airplanes. That NPRM was published in the **Federal Register** on December 23, 2008 (73 FR 78675). That NPRM proposed to require deactivation of Rogerson Aircraft Corporation auxiliary fuel tanks.

#### **Comments**

We gave the public the opportunity to participate in developing this AD. We considered the comment received. Boeing supports the NPRM.

#### **Conclusion**

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD as proposed.

#### **Costs of Compliance**

This AD would affect about 17 U.S.-registered airplanes. The following table provides the estimated costs to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Fleet cost
Report .....	1	\$80	None .....	\$80	\$1,360.
Preparation of tank deactivation procedure .....	80	80	None .....	6,400	Up to \$108,800.
Physical tank deactivation .....	30	80	\$1,200 .....	3,600	Up to \$61,200.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. “Subtitle VII: Aviation Programs,” describes in more detail the scope of the Agency’s authority.

We are issuing this rulemaking under the authority described in “Subtitle VII, Part A, Subpart III, Section 44701: General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

*For the reasons discussed above, I certify that this AD:*

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**Adoption of the Amendment**

■ Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

■ 1. The authority citation for part 39 continues to read as follows:  
**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by adding the following new AD:

**2009–20–01 Boeing:** Amendment 39–16024. Docket No. FAA–2008–1325; Directorate Identifier 2008–NM–157–AD.

**Effective Date**

(a) This airworthiness directive (AD) is effective October 26, 2009.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Boeing Model 727–281 airplanes, certificated in any category, and equipped with auxiliary fuel tanks installed in accordance with Supplemental Type Certificate (STC) SA3449NM.

**Unsafe Condition**

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

**Compliance**

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**Report**

(f) Within 60 days after the effective date of this AD, submit a report to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Information collection requirements in this AD are approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and are assigned OMB Control Number 2120–0056. The report must include the following information:

- (1) The airplane registration and auxiliary tank STC number installed.
- (2) The usage frequency in terms of total number of flights per year and total number of flights for which the auxiliary tank is used.

**Prevent Usage of Auxiliary Fuel Tanks**

(g) Within 90 days after the effective date of this AD, deactivate the auxiliary fuel tanks, in accordance with a deactivation procedure approved by the Manager of the Los Angeles ACO. Any auxiliary tank component that remains on the airplane must be secured and must have no effect on the continued operational safety and airworthiness of the airplane. Deactivation may not result in the need for additional instructions for continued airworthiness.

**Note 1:** Appendix A of this AD provides criteria that might need to be included in the deactivation procedure. Timely approval is dependent on early submittal of the deactivation procedures.

**Note 2:** For technical information, contact Dan Zevallos, Director of Program Management, Rogerson Aircraft Corporation, 2201 Alton Parkway, Irvine, California 92606; telephone (949) 442–2306; fax (949) 442–2322.

**Alternative Methods of Compliance (AMOCs)**

(h)(1) The Manager, Los Angeles ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Serj Harutunian, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5254; fax (562) 627–5210.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

**Material Incorporated by Reference**

(i) None.

**Appendix A**

**Deactivation Criteria**

The auxiliary fuel tank deactivation procedure required by paragraph (g) of this AD might need to address the following actions.

(1) Permanently drain auxiliary fuel tanks, and clear them of fuel vapors to eliminate the possibility of out-gassing of fuel vapors from the emptied auxiliary tank.

**Note:** If applicable, removing the bladder might help eliminate out-gassing.

(2) Disconnect all electrical connections from the fuel quantity indication system (FQIS), fuel pumps if applicable, float switches, and all other electrical connections required for auxiliary tank operation, and stow them at the auxiliary tank interface.

(3) Disconnect all pneumatic connections if applicable, cap them at the pneumatic source, and secure them.

(4) Disconnect all fuel feed and fuel vent plumbing interfaces with airplane original equipment manufacturer (OEM) tanks, cap them at the airplane tank side, and secure them in accordance with a method approved by the FAA; one approved method is specified in AC 25-8 Auxiliary Fuel Tank Systems Installations. In order to eliminate the possibility of structural deformation during cabin decompression, leave open and secure the disconnected auxiliary fuel tank vent lines.

(5) Pull and collar all circuit breakers used to operate the auxiliary tank.

(6) Revise the weight and balance document, if required, and obtain FAA approval.

(7) Amend the applicable sections of the applicable airplane flight manual (AFM) to indicate that the auxiliary fuel tank is deactivated. Remove auxiliary fuel tank operating procedures to ensure that only the OEM fuel system operational procedures are contained in the AFM. Amend the Limitations Section of the AFM to indicate that the AFM Supplement for the STC is not in effect. Place a placard in the flight deck indicating that the auxiliary tank is deactivated. The AFM revisions specified in this paragraph may be accomplished by inserting a copy of this AD into the AFM.

(8) Amend the applicable sections of the applicable airplane maintenance manual to remove auxiliary tank maintenance procedures.

(9) After the auxiliary fuel tank is deactivated, accomplish procedures such as leak checks and pressure checks deemed necessary before returning the airplane to service. These procedures must include verification that the airplane FQIS and fuel distribution systems have not been adversely affected.

(10) Include with the operator's proposed procedures any relevant information or additional steps that are deemed necessary by the operator to comply with the deactivation and return the airplane to service.

Issued in Renton, Washington, on September 11, 2009.

**Stephen P. Boyd,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9-22575 Filed 9-18-09; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

**15 CFR Parts 730, 732, 734, 736, 738, 740, 742, 743, 744, 746, 747, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772 and 774**

[Docket No. 0908141238-91252-01]

RIN 0694-AE72

### Updated Statements of Legal Authority for the Export Administration Regulations

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule updates the Code of Federal Regulations legal authority citations for the Export Administration Regulations (EAR) to include the citation to the President's *Notice of August 13, 2009—Continuation of Emergency Regarding Export Control Regulations*.

**DATES:** The rule is effective September 21, 2009.

**ADDRESSES:** Comments concerning this rule should be sent to [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov), fax (202) 482-3355, or to Regulatory Policy Division, Bureau of Industry and Security, Room H2705, U.S. Department of Commerce, Washington, DC 20230. Please refer to regulatory identification number (RIN) 0694-AE72 in all comments, and in the subject line of e-mail comments.

**FOR FURTHER INFORMATION CONTACT:** William Arvin, Regulatory Policy Division, Bureau of Industry and Security, Telephone: (202) 482-2440.

#### SUPPLEMENTARY INFORMATION:

#### Background

Since the Export Administration Act expired in August 2001, parts 730-744 and 746-774 of the EAR have been continued in force pursuant to Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002) and the annual notices continuing the emergency declared in that executive order. This rule revises authority citations in the Code of Federal Regulations to include the President's *Notice of August 13, 2009—Continuation of Emergency Regarding Export Control Regulations* (74 FR 41325, August 14, 2009), which is the most recent such annual notice. This rule also removes the citation to Public Law 106-508 from part 743. Public Law 106-508 is the 2000 renewal of the Export Administration Act, which has expired, making the citation obsolete.

## Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule does not involve any collection of information.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are unnecessary. This rule only updates legal authority citations. This rule does not alter any right, obligation or prohibition that applies to any person under the EAR. Because these revisions are not substantive changes, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule. Because neither the Administrative Procedure Act nor any other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

#### List of Subjects

##### 15 CFR Part 730

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR Parts 732, 740, 748, 750, 752 and 758

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

##### 15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.